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7 **UNITED STATES DISTRICT COURT**
8 **WESTERN DISTRICT OF WASHINGTON**
9 **TACOMA DIVISION**

10 WILL CO. LTD. a limited liability company
11 organized under the laws of Japan,

12 Plaintiff,

13 vs.

14 KA YEUNG LEE, an individual; YOUHAHA
15 MARKETING AND PROMOTION
16 LIMITED, a foreign company; and, DOES 1-
17 20, d/b/a THISAV.COM,

18 Defendants

Case No. 3:20-cv-05802-BHS

**DECLARATION OF FRANK
SCARDINO IN SUPPORT OF
DEFENDANTS' REPLY IN SUPPORT
OF MOTION TO DISMISS FOR LACK
OF PERSONAL JURISDICTION**

19 **DECLARATION OF FRANK SCARDINO IN SUPPORT OF DEFENDANTS'**
20 **MOTION TO DISMISS FOR LACK OF PERSONAL JURISDICTION**

21 I, Frank Scardino, declare and state as follows:

22 1. My name is Frank Scardino. I am over the age of 18 years. I am an associate
23 attorney at Boston Law Group, PC, which is counsel to the Defendants with pending *pro hac vice*
24 applications in the above captioned case. I am licensed to practice law in the Commonwealth of
Massachusetts, and my bar number is 703911 in Massachusetts. I make this declaration based
upon personal knowledge. All statements contained in this declaration are true and correct to the

1 best of my knowledge. If called as a witness, I could and would testify as to the facts set forth in
2 this declaration.

3 2. On April 13, 2021, I visited the website for Digital Commerce, Inc. which is the
4 company referenced by Plaintiff on page 3 of Plaintiff's opposition. A true and correct screenshot
5 of the English version of Digital Commerce Inc.'s website homepage at
6 <http://digitalcommerce.co.jp/en/> is attached hereto as Exhibit 1.

7 3. As can be seen from Exhibit 1, Digital Commerce Inc.'s website states that it is
8 physically located in Tokyo, Japan, and that it has "Capital Stock" in the amount of "10,000,000
9 JPY." The website also makes reference to "FANZA" and "R18.com."

10 4. On April 13, 2021, I visited the website, whois.domaintools.com, which provides a
11 database search tool that can, among other things, provide the registrant of a particular website.
12 On April 13, 2021, I searched the term "r18.com" on the whois.domaintools.com website and
13 found that the "Registrant Org" for R18.com is listed as "Digital Commerce Inc." A true and
14 correct screenshot of this report is attached hereto as Exhibit 2.

15 5. On April 13, 2021, I visited the website, R18.com and visited this website's terms
16 of service page at <https://www.r18.com/info/terms/>. A true and correct printout of a portion of
17 R18.com's terms of service page is attached hereto as Exhibit 3. As can be seen from Exhibit 3,
18 R18.com's terms of service state that "The Terms shall be construed in accordance with the laws
19 of Japan" and "The operator and users shall agree in advance that they should submit to the
20 exclusive first-instance jurisdiction of the Tokyo District Court in any dispute that may arise
21 between the operator and any user in connection with the Service or with the Terms." According
22 to Article 1 of R18.com's terms of service, "Digital Commerce Co., Ltd" is the operator of
23 R18.com.
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1 6. On April 13, 2021, I visited the “Terms and Conditions” page for ThisAV.com at
 2 the following URL: <https://www.thisav.com/static/terms>. A Copy of this page is attached hereto
 3 as Exhibit 4. Section 14 of this “Terms and Conditions” page contains the following statement:
 4 “This Agreement shall be governed by and construed in accordance with the laws of Republic of
 5 Panama, without regard to conflicts of law principles. The sole and exclusive jurisdiction and
 6 venue for any action or proceeding arising out of or related to this Agreement shall be in an
 7 appropriate state or federal court located in the Republic of Panama. You hereby submit to the
 8 jurisdiction and venue of said Courts.”

9 7. On April 13, 2021, I visited the “Administrator” or “Webmaster” page for
 10 ThisAV.com at the following URL: <https://www.thisav.com/static/webmasters>. A true and correct
 11 copy of this page, translated into English by a Google Chrome browser, is attached hereto as
 12 Exhibit 5. This page contains the following statement: “ThisAV is an all-Chinese adult
 13 pornographic video and photo album sharing community website.”

14 8. This following statement: “ThisAV.com-the world's first Chinese adult
 15 entertainment website, all rights reserved” as translated into English by Google Chrome browser
 16 or by Google Translate, is found on the bottom of numerous pages on ThisAV.com, including:
 17 <https://www.thisav.com/static/webmasters>; <https://www.thisav.com/static/faq>;
 18 <https://www.thisav.com/static/privacy>; <https://www.thisav.com/static/dmca>;
 19 https://www.thisav.com/static/_2257; and <https://www.thisav.com/>. In the original Chinese, this
 20 statement is as follows: “ThisAV.com - 世界第一中文成人娛樂網站, 保留所有權利.”
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1 I declare under penalty of perjury that the foregoing facts are true and correct.

2 Executed on April 13, 2021

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4 /s/ Frank Scardino
5 Frank Scardino
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